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BLEDSOE et al. v. ROBINETT.

Sept. 13, 1906.

[54 S. E. 861.]

1. Equity—Pleading—Demurrsers—Implied Ruling.—Where demurrsers filed to a bill were not expressly passed on, but the case was brought on to be heard on the demurrer, and the relief prayed for by the bill was granted, the demurrer was impliedly overruled.

2. Injunction—Bill to Restrain Trespass.—While a bill to restrain a trespass need not allege that complainant's title is undisputed or has been adjudicated, it is insufficient to allege therein that complainant is the owner of the land on which the trespass is being committed, but the nature and source of his title should be set out and his title papers, if any, or copies thereof should be attached to the bill as exhibits.

[Ed. Note.—For cases in point, see vol. 27, Cent. Dig. Injunctions, § 233; vol. 19, Cent. Dig. Equity, § 324.]

3. Same—Adequate Remedy at Law.—A bill to restrain a trespass on uninclosed timber land alleged that complainant was the owner thereof, and had been in possession for more than 30 years. It also charged that B. and wife in March, 1901, began to claim the land, went upon the same and cut and took therefrom a suite of house logs worth \$25, that there was much valuable timber on the land, and that recently B. and wife contracted and sold to R. \$160 worth of such timber which they were cutting for the purpose of removing the same; that unless they were enjoined and restrained, they would cut and remove such timber to complainant's irreparable injury, and that B. was insolvent. Held, that the bill did not allege facts showing that complainant would suffer an irreparable injury unless an injunction was granted, and was therefore demurrable.

[Ed. Note.—For cases in point, see vol. 27, Cent. Dig. Injunction, § 17.]